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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/047,502	11/13/2001	Masahiko Sato	450100-03617	3958
20999	7590	04/20/2007	EXAMINER	
FROMMERM LAWRENCE & HAUG 745 FIFTH AVENUE- 10TH FL. NEW YORK, NY 10151			SHANG, ANNAN Q	
			ART UNIT	PAPER NUMBER
			2623	

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	04/20/2007	PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

<b>Office Action Summary</b>	Application No.	Applicant(s)
	10/047,502	SATO ET AL.
	Examiner Annan Q. Shang	Art Unit 2623

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 31 January 2007.
- 2a) This action is **FINAL**.                            2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-5,7-19 and 21-36 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1-5,7-19 and 21-36 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All    b) Some \* c) None of:
  1. Certified copies of the priority documents have been received.
  2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413)
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	Paper No(s)/Mail Date. _____.
3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)	5) <input type="checkbox"/> Notice of Informal Patent Application
Paper No(s)/Mail Date _____.	6) <input type="checkbox"/> Other: _____.

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 103***

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-5, 7-8, 10, 14-19, 21-22, 24 and 28-36 are rejected under 35 U.S.C. 103(a) as being unpatentable over **Russo (5,619,247)** in view of **Shah-Nazaroff et al (6,157,377)**.

As to claims 1-4, note the **Russo** reference figures 1-2, discloses stored program pay-per-play and further discloses an information recording apparatus comprising:

Information recording means (Controller 'C' 10) for recording information in a first recording medium (Storage 'S' 14 or 110) and information storing means (figs.1, 2, col.3, line 40-col.4, line 27 and line 45-col.5, line 10);

Operation means (C-10) for operating unloading of the first recording medium the information recorded by the first recording means (col.4, line 45-col.5, line 10 and col.6, lines 33-53);

Unloading means (C-10) for unloading the first recording medium based on the operation of the operation means (col.4, line 45-col.5, line 10 and col.6, lines 33-53); and

Fee charging means (C-10) for charging when the first recording medium is unloaded by the unloading means, and selecting means for selecting quality of the

information to be stored in the first recording medium by the information recording means; where the fee charging means varies the amount of charge according to the quality selected by the selecting means and dubbing information stored in the first recording medium prior to the unloading (col.6, line 33-col.7, line 23 and col.10, lines 10-21).

Russo teaches storing different quality based upon input criteria, but silent to varying the amount of charge according to the quality selected and where the dubbing comprises status information transmitted for conversion prior to unloading.

However, note the **Shah-Nazaroff** reference figures 1-6, discloses method and apparatus for purchasing upgraded media features for programming transmissions, transmits status information to the client prior to unloading and enables a user selected upgrade or quality of media, to be applied to the media before unloading (col.2, line 18-col.3, line 1+, col.4, line 16-col.5, line 1+ and col.6, lines 15-48).

Therefore it would have been obvious to one of ordinary skill in the art at the time of the invention to incorporate the teaching of Shah-Nazaroff into the system of Russo to provide the user an opportunity to select affordable service based on image quality, sound or audio quality, etc.

As to claim 5, Russo further disclose notifying means for notifying charging of fee when unloading operation is performed through the operating means (col.4, line 45-col.5, line 10 and col.6, lines 33-53).

Claims 7-8, 10 and 14 are met as previously discussed with respect to claim 1.

As to claim 15-18, the claimed "A charging method for charging a fee related to an information recording..." is composed of the same structural elements that were discussed with respect to the rejection of claims 1-2.

Claim 19 is met as previously discussed with respect to claim 5.

Claims 21-22, 24 and 28 are met as previously discussed with respect to claim 1.

As to claims 29-31, the claimed "An information recording apparatus comprising..." is composed of the same structural elements that were discussed with respect to the rejection of claims 1-3.

Claim 32 is met as previously discussed with respect to claim 5.

As to claims 33-35, the claimed "A charging method for charging a fee related to an information recording apparatus..." is composed of the same structural elements that were discussed with respect to the rejection of claims 1-3.

Claim 36 is met as previously discussed with respect to claim 5.

3. Claims 9, 11 and 23, 25 are rejected under 35 U.S.C. 103(a) as being unpatentable over **Russo (5,619,247)** in view of **Shah-Nazaroff et al (6,157,377)** as applied to claims 1 and 15 above, and further in view of **Hershtik et al (5,790,236)**.

As to claims 9 and 11, Russo as modified by Shah-Nazaroff, fail to explicitly teach where the quality of the information is based on number of languages and region code.

However, **Hershtik** teaches processing movies based on frame characteristics of the language and audio format, such as French, German, Italian, English, etc., all of which includes its region code (col.4, lines 50-65, col.6, line 61-col.7, line 55 and col.14, lines 31-67).

Therefore it would have obvious to one of ordinary skill in the art at the time of the invention to incorporate the teaching **Hershtik** into the system of **Russo** as modified by **Shah-Nazaroff** in order to process image quality based on the language, audio and region code as selected by a user, to enable the information provider to meet various user preferences and charge a fee accordingly for these services.

Claims 23 and 25 are met as previously discussed with respect to claims 9 and 11.

4. Claims 12-13 and 26-27 are rejected under 35 U.S.C. 103(a) as being unpatentable over **Russo (5,619,247)** in view of **Shah-Nazaroff et al (6,157,377)** as applied to claims 1 and 15 above, and further in view of **Eyer et al (6,588,015)**.

As to claim 12-13, **Russo** as modified by **Shah-Nazaroff**, fail to explicitly teach selecting to recording of commercial message along with the information, where reducing the amount of charge when recording of the commercial message is selected.

However, note the **Eyer** reference, discloses various methods of reducing fees based on a user specific preferences related to commercials or ads (col.6, lines 50-61 and col.16, line 28-col.17, line 1+).

Therefore it would have obvious to one of ordinary skill in the art at the time of the invention to incorporate the teaching of Eyer into the system of Russo as modified by Shah-Nazaroff to enable a user to select desirable and affordable service and for the information provide to charge an appropriate fee based on the user's preference.

***Conclusion***

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Christopoulos et al (2001/0047517) disclose method and apparatus for intelligent transcoding of multimedia data.

6. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to **Annan Q. Shang** whose telephone number is **571-272-7355**. The examiner can normally be reached on **700am-400pm**.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, **Christopher S. Kelley** can be reached on **571-272-7331**. The fax phone number for the organization where this application or proceeding is assigned is **571-273-8300**.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the **Electronic Business Center (EBC)** at **866-217-9197 (toll-free)**. If you would like assistance from a **USPTO Customer Service Representative** or access to the automated information system, **call 800-786-9199 (IN USA OR CANADA) or 571-272-1000**.



**Annan Q. Shang**